

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

04-CR-6068L

v.

GUARLD D. CLINE,

Defendant.

An indictment is pending against this defendant, Guarld Cline (“Cline”). Based on Cline’s motion seeking a determination of competency, numerous proceedings have been held before the United States Magistrate Judge and this Court. Eventually this Court accepted the report of a psychiatrist who determined that Cline lacked competence to understand the proceedings against him and assist in his defense. Familiarity with those proceedings and the Court’s order is presumed.

Based on the finding of incompetency, the Court committed Cline to the custody of the Attorney General to determine if there is a substantial probability that in the foreseeable future the defendant will attain the capacity to permit proceedings on the pending indictment to proceed. 18 U.S.C. § 4241(d). Pursuant to that order, the Bureau of Prisons has directed Cline to voluntarily surrender to the Federal Correctional Institution at Butner, North Carolina on October 22, 2008.

By motion filed October 15, 2008, Cline seeks various forms of relief, including a stay, and another mental examination to determine defendant’s competency based on medical records attached to the motion (Dkt. #88).

The Government responded on October 17, 2008 (Dkt. #89) in opposition.


Defendant's motion is denied. Considerable proceedings have occurred concerning this defendant and his claim of incompetency and only a few weeks ago, the defendant urged this Court to adopt the Report and Recommendation of United States Magistrate Judge Marian W. Payson that Cline is incompetent. Based on that, further proceedings were held and the Court followed the statute and committed the defendant as required.

I believe the best course is to proceed as I previously ordered. The Attorney General is directed to make a determination at this time as to whether the defendant within a foreseeable period of time has or will retain competency. All the medical evidence now submitted to me on this motion can be presented to the Attorney General and the Bureau of Prisons for their required determination. I believe the determination that defendant seeks can best be accomplished at the Federal Medical Center which routinely deals with issues of competency in the setting of a criminal prosecution.

CONCLUSION

Defendant's motion (Dkt. #88) for a stay and for related relief is denied, and defendant is directed to report as ordered to the Federal Correctional Institution, Butner, North Carolina on October 22, 2008.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
October 17, 2008.